

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-publication of Notice Statement)

Add Section 124
Title 14, California Code of Regulations (CCR)
Re: California Halibut Trawl Grounds

- I. Date of Initial Statement of Reasons: February 11, 2008
- II. Dates and Locations of Scheduled Hearings:
 - (a) Notice Hearing: Date: December 6, 2007
Location: Sacramento, CA
 - (b) Discussion Hearing Date: March 7, 2008
Location: Stockton
 - (b) Adoption Hearing: Date: April 11, 2008
Location: Bodega Bay, CA
- III. Description of Regulatory Action:
 - (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

Section 8495 of the Fish and Game Code specifies certain state waters along the mainland shore between Point Arguello and Point Mugu as the California Halibut Trawl Grounds (CHTG). This area now encompasses the last remaining ocean waters of the state where commercial bottom trawl fishing activity is authorized. Generally speaking, state waters extend to three nautical miles from the mainland shore of California, and three nautical miles from the shore of California's coastal islands.

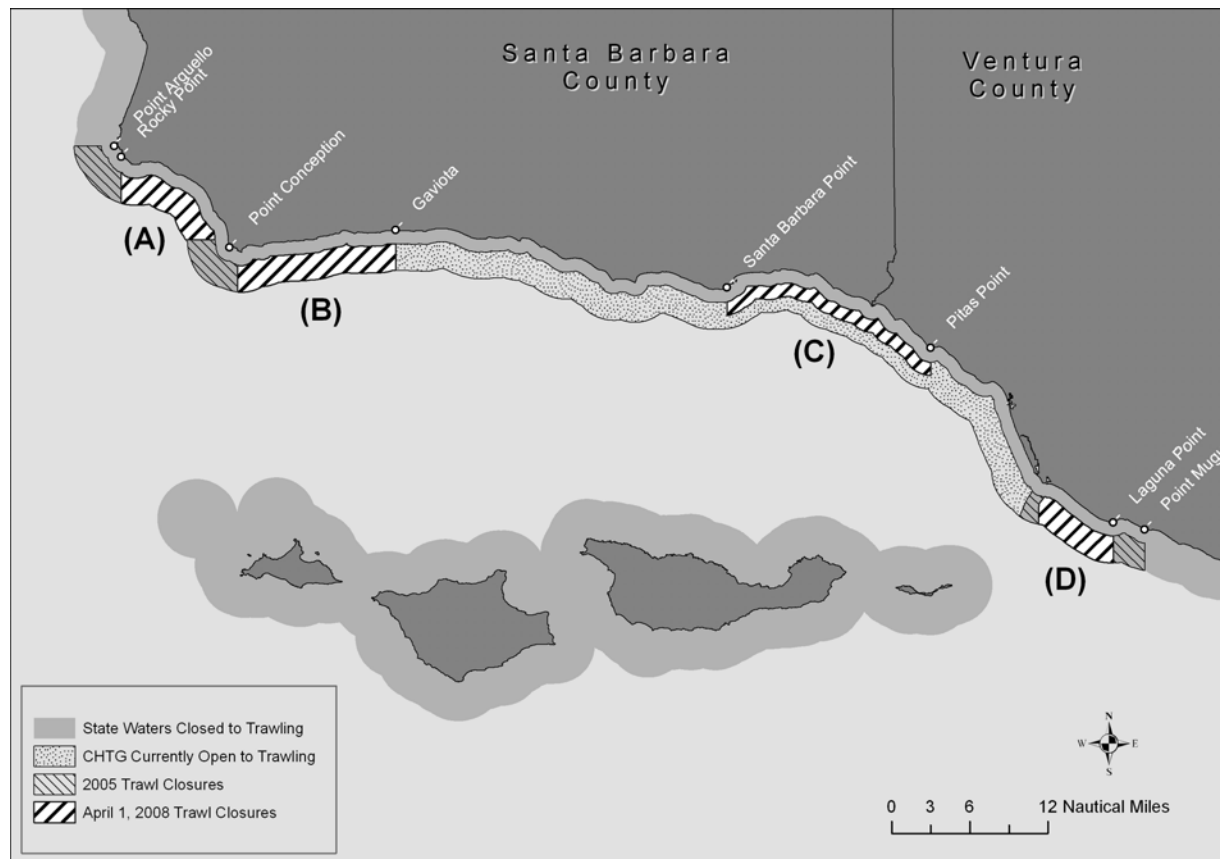
S.B. 1459 (Chapt. 721, Stats. 2004), which amended Section 8495, resulted in closure of about 13 percent of the CHTG, effective in 2005. The closures occurred in four specific areas surrounding Point Arguello, Point Conception, Hueneme Canyon and Point Mugu.

As part of that Legislative action, subdivision (c) of Section 8495 was added, which specifies that commencing April 1, 2008, four additional areas within the CHTG, amounting to about 42 percent of the remaining open area, will close unless the Fish and Game Commission (Commission) makes certain findings. A map of the CHTG, including the 2005 closures and the closures slated for

April 2008, is provided below.

The four areas can be described generally as waters lying approximately between the following points:

- (A) Rocky Point to Point Conception; one to three miles from shore
- (B) Point Conception to Gaviota; one to three miles from shore
- (C) Santa Barbara Point to Pitas Point; one to two miles from shore
- (D) Hueneme Canyon to Laguna Point; one to three miles from shore



Subdivision (c) also specifies the findings to be made that would keep these four areas open, as follows:

"Commencing April 1, 2008, the following areas in the California halibut trawl grounds shall be closed to trawling, unless the commission finds that a bottom trawl fishery for halibut minimizes bycatch, is likely not damaging sea floor habitat, is not adversely affecting ecosystem health, and is not impeding reasonable restoration of kelp, coral, or other biogenic habitats: (2) In making the finding described in paragraph (1), the commission shall pay special attention to areas where kelp and other biogenic habitats existed and where restoring those habitats is reasonably feasible, and to hard bottom areas and other substrate that may be particularly sensitive to bottom trawl impacts."

The Commission has taken testimony at recent discussion hearings and is considering all available information in its deliberations, and may determine that such findings are warranted for one or more of the four areas. If such findings are made, the Commission would subsequently take regulatory action at its April 11th meeting to keep one or more of the four areas open. This Initial Statement of Reasons has been prepared prior to the Commission making a determination on any findings in order to allow the Notice to appear in the California Regulatory Notice Register, initiating the 45-day public comment period as required by the Administrative Procedure Act. If no findings are made, no subsequent regulatory action would be necessary, and the areas would close as required by the statute.

Pursuant to Fish and Game Code Section 8496, the season for trawling in the California Halibut Trawl Grounds opens on June 16th, and runs through March 14 each year. Should the Commission make any findings at or before its April 11, 2008 meeting, it would be able to adopt regulations at that time to keep one or more of the areas open to fishing. Action to adopt on that date should allow adequate time for review of the file by the Office of Administrative Law prior to the June 16th season opener, thereby allowing any fishing activity to commence in these four areas without interruption.

Regulatory Options

During the discussion hearing on this issue at its February 7th meeting in San Diego, the Commission requested that it be provided the option to keep any combination of the four areas open to bottom trawling, allowing it to review data presented and make a determination on each area independently. The proposed regulatory language included with this Initial Statement of Reasons has been constructed accordingly.

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 8841 and 8495, Fish and Game Code.

Reference: Sections 8392, 8494, 8495, 8496, 8497, 8830, 8831, 8832, 8833, 8834, 8834.1, 8834.5, 8835, 8836, 8837, 8840, 8841, and 8843, Fish and Game Code.

- (c) Specific Technology or Equipment Required by Regulatory Change:

None.

- (d) Identification of Reports or Documents Supporting Regulation Change:

The Department has submitted a report to the Commission entitled "Information Concerning the California Halibut Trawl Fishery off Southern California." The document provides the best available information about the California halibut bottom trawl fishery operating within the California Halibut Trawl Grounds as it relates to subdivision 8495(c) of the Fish and Game Code. Information contained within the report was obtained from monitoring data (logbook, market receipt, and at-sea observations), relevant scientific literature, and informational documents published by academic institutions, government agencies, and non-government organizations. It also contains discussion of estimated economic impacts of closing each of the four areas.

(e) Public Discussions of Proposed Regulations Prior to Notice publication:

The Commission requested and received information relevant to the finding required by Fish and Game Code Section 8495 at its August 9, 2007 meeting in Santa Barbara, its October 11, 2007 meeting in Concord, its November 1, 2007 meeting in Sacramento, its December 6, 2007 meeting in Sacramento, and its February 7, 2008 meeting in San Diego.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

No reasonable alternatives were identified.

(b) No Change Alternative:

If the Commission does not make the requisite finding as described, and thus does not adopt the proposed regulations, the four previously described areas within the California Halibut Trawl Grounds will close pursuant to Subdivision 8495(c) of the Fish and Game Code.

(c) Consideration of Alternatives:

In view of the information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulation.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment;

therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

If the Commission makes the finding described herein and takes action to keep the areas open, there will be no negative economic impact to businesses, which are primarily fish businesses and owners, operators and crewmembers employed upon vessels holding a California Halibut Trawl Vessel Permit. If the Commission does not make the finding and the four areas close as required by the statute, the economic impacts would have been considered during the Legislative process associated with adoption of SB 1459 (Chapt. 721, Stats. 2004).

Additionally, as described above, the Department's report entitled "Information Concerning the California Halibut Trawl Fishery off Southern California" includes updated discussion of estimated economic impacts of closing each of the four areas.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

None.

(c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

(d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

(e) Nondiscretionary Costs/Savings to Local Agencies:

None.

(f) Programs Mandated on Local Agencies or School Districts:

None.

(g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:

None.

(h) Effect on Housing Costs:

None.

Informative Digest/Policy Statement Overview

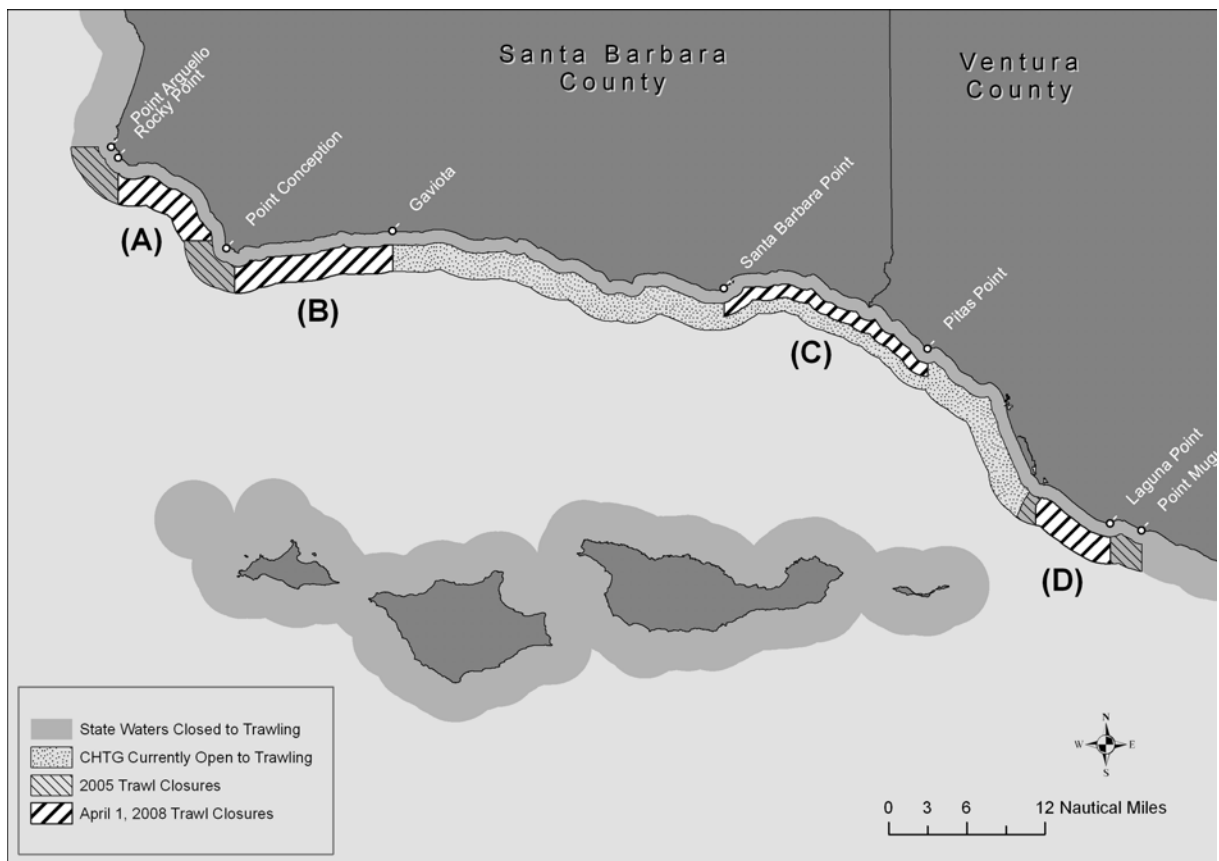
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